Nos. 93-1456 & 93-1828

In The

Supreme Court of the United States

October Term, 1994

U.S. TERM LIMITS, INC., *et al.*,

Petitioners,

v.

RAY THORNTON, *et al.*,

Respondents.

STATE OF ARKANSAS *ex rel.* WINSTON BRYANT,
Attorney General of the State of Arkansas,

Petitioner,

v.

BOBBIE E. HILL, *et al.*,

Respondents.

On Writ Of Certiorari
To The Supreme Court Of Arkansas

BRIEF OF AMICI CURIAE, PEOPLE'S ADVOCATE, INC. AND NATIONAL COMMITTEE TO LIMIT TERMS IN SUPPORT OF PETITIONERS' BRIEFS ON THE MERITS

JAYNA P. KARPINSKI
6929 Larkspur Avenue
Citrus Heights, CA 95610
Telephone: (916) 722-8647

Counsel for Amici Curiae
People's Advocate, Inc. and
National Committee to Limit Terms

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INTEREST OF AMICI

People's Advocate, Inc. is a non-profit public benefit California corporation founded in 1974 by the late Paul Gann and is dedicated to the promotion of government reform through populist activism via the powers reserved to the people, i.e., the initiative process. In the twenty years since its establishment, People's Advocate has sponsored 15 state-wide ballot initiatives proposed by petition of the people, including Proposition 13, the famous Jarvis-Gann property tax initiative. People's Advocate is governed by an elected five-member Board of Directors, one of which is a direct descendent of James Madison. Currently, People's Advocate has 171,000 members and contributors who support its goals and an additional 420,000 households on its mailing list throughout the United States.

National Committee to Limit Terms (NCLT) was founded in 1990 as a special project of People's Advocate and is governed by a three-person Board of Directors appointed by the directors of People's Advocate. The primary mission of NCLT is to promote state and congressional term limits in California and throughout the several states using the initiative process. Since 1990, 117,000 people have asked NCLT to work on their behalf to limit congressional terms.

People's Advocate, by and through another of its special projects, California Committee to Limit Terms (CCLT), marshalled its forces to qualify California Proposition 140, a ballot initiative to limit the terms of state officials, adopted by the voters in 1990. In 1992, CCLT circulated and qualified a ballot initiative (Proposition

164) to limit congressional terms and participated in the ballot arguments. Proposition 164 received over 60% voter approval and is now the law of the State of California.

Since the Arkansas Supreme Court's decision invalidating Amendment 73 to its state constitution, limiting congressional terms, NCLT has received over 7,600 requests from individuals to file an amicus brief on their behalf to uphold the Arkansas constitutional amendment and, by implication, uphold the similarly-phrased California law limiting congressional terms.

Amici's interest in this case arises from their commitment to the principle that the essence of a republican form of government, guaranteed to the States by the Constitution, lies in the powers reserved to the people, who must necessarily act through the state legislative processes available to them. In so addressing, Amici urge this Court to consider the important aspects of public policy embodied in term limitation laws and respectfully urge this court to uphold Amendment 73 to the Arkansas constitution.

SUMMARY OF ARGUMENT

The Tenth Amendment provides an independent constitutional basis to reverse the decision of the Supreme Court of Arkansas.

The peoples' power to limit the terms of their congressional Representatives and Senators is a power

reserved to them under the Tenth Amendment. The Constitution was founded on the principle of popular sovereignty: the people delegated limited powers to the federal government and retained the remainder. One of the expressly retained powers was to elect the representatives of their choice; the power to limit that representation is necessarily implied. The power of the people to limit terms is historically derived; that power predates – and survives – the Constitution.

The Constitution does not delegate to Congress the power to limit the terms of the peoples' representatives. If Ark. Const. amend. 73 is not a ballot restriction permissible under the "time, place, manner clause", then the power of Congress to limit terms is no greater than that of the states. If term limitation is a "qualification", then Congress' only power is to judge, not add, the standing qualifications of its members duly elected by the people.

The Constitution does not prohibit the states from limiting the terms of its congressional representatives. Term limitation is not a qualification. Laws that simply limit ballot access yet provide for write-in candidacy do not disqualify incumbents from serving if elected and such provisions do not affect classes of people. Even if incumbency is a "dis"-qualification, the right to disqualify is founded on the states' retained right to enact – and the peoples' right to exercise – recall provisions.

Not delegated to Congress nor prohibited to the states, the power to limit the terms of their representatives is a power that rests ultimately with the people. But how are the people to exercise their reserved powers within the Constitution? The Framers of the Constitution

could not have intended to provide the people with a vehicle which has no motor or wheels. The Tenth Amendment provides no remedy. The peoples' only mobility is through their vote on a state-by-state basis.

Article V is no bar to the peoples' power to limit the terms of their congressional representatives. Read in context with the Tenth Amendment, the power to amend the Constitution also rests ultimately with the people. That power was not delegated solely to Congress, nor prohibited to the States. The exercise of the popular vote on a state-by-state basis is, as history supports, the only feasible way that the people can effect changes in the Constitution.

ARGUMENT

I. THE TENTH AMENDMENT RESERVES TO THE PEOPLE OF EACH STATE THE POWER TO LIMIT THE TERMS OF OFFICE OF THEIR CONGRESSIONAL REPRESENTATIVES

"The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to *the people.*" *U.S.Const. amend. X.* [Emphasis added]. While the States and the Federal Government are "dual" sovereigns, the sovereignty of the people is ultimate in the entire constitutional context.

The Arkansas Term Limitation Constitutional Amendment (Amendment 73) was a ballot proposal initiated by "petition of the people" and, as stated in its

preamble, was adopted by "the people of Arkansas, exercising their reserved powers."[1]

This Court has recognized "the authority of the people of the States to determine the qualifications of their most important government officials . . . is a power reserved to the States under the Tenth Amendment and guaranteed them by that provision of the Constitution under which the United States 'guarantee[s] to every State in this Union a Republican Form of Government.' " *Gregory v. Ashcroft*, 501 U.S. ___, ___ (1991). The principles espoused in *Gregory* are easily extended to congressional term limitations: the federalist structure was designed to *increase*, not decrease, the opportunity for citizen involvement in democratic processes and to allow *more*, not less, innovation and experimentation in government.

The power of the people to limit the terms of their own representatives lies at the heart of representative democracy. *Amici* take the position that term limitation, on a state-by-state basis, especially by laws that only regulate ballot access, is a power reserved to the people of each state. This position is not contrary to the constitutional amendment provision of Article V whereby uniform provisions for term limitation on a national level would be achieved. But until and unless a term limitation amendment to the Constitution is proposed and ratified, that power is not delegated and is reserved to the people.

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[1] See text of ballot proposal.

A. THE POWER OF THE PEOPLE TO LIMIT TERMS IS HISTORICALLY DERIVED

1. Popular Sovereignty is the Heart of Representative Government

The entire political theory of the Constitution from its origins to its adoption is based upon the will of the people. When the Second Continental Congress met in May, 1775, it was composed of "delegates" sent by the people who viewed their right of "legislative representation" as "inestimable" and that government could only derive its just powers from the "consent of the governed". See, Declaration of Independence, July 4, 1776.

Popular sovereignty was a common feature of the revolutionary states' constitutions where constitutions were adopted by conventions of the people. One example is the Georgia constitution of 1785[2] which states:

> "We, therefore, the representatives of the people, from whom all power originates and for whose benefit all government is intended, by virtue of the power delegated to us, do ordain . . . "

Regarding the people's sovereign right and power to alter their government as the very foundation of our Constitution, James Wilson insisted:

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[2] (Source: Constitutions of the States, Georgia); by 1877, after the Civil War, the Georgia Constitution still read: "All government, of right, originates with the people, is founded upon their will only, and is instituted solely for the good of the whole. Public officers are the trustees and servants of the people, and, at all times, amenable to them." Ga. Const. art. I, sec. 2-101.

> "The truth is, that, in our governments, the supreme, absolute and uncontrollable power *remains* in the people. As our constitutions are superior to our legislatures; so the people are superior to our constitutions. Indeed the superiority, in this last instance is much greater; for the people possess, over our constitutions control in *act*, as well as in right." The Rights Retained by the People, Randy Barnett (ed.), Vol. 2, p. 335 (1993).

From its preamble to its tenth and final "bill of right", the Constitution begins and ends with "*the people*". Aptly stated,

> "Sovereignty resides ultimately in the people as a whole and, by adopting through their States a written Constitution for the Nation and subsequently adding amendments to that instrument, they have both granted certain powers to the National Government, and denied other powers to the National and the State Governments. . . . For the theory is that the people themselves have spoken in the Constitution, and therefore its commands are superior to the commands of the legislature, which is merely an agent of the people." *Furman v. State of Georgia*, 408 U.S. 238, 466 (1972) (J. Rehnquist, dissenting).

Certainly, the power of the people of a state to limit the terms of their own representatives in Congress is reserved to them if (a) the power to limit terms is not delegated to Congress and (b) the power to limit terms is not prohibited to the States.

2. The Peoples' Power to Limit Terms Predates the Constitution

The power to limit the terms of their congressional delegates was vested in the states prior to the adoption of the Constitution. The colonies recognized that the people had a *right* to be free from the oppression of entrenched incumbency and that legislative representatives should experience the burdens of the people they represent and, after a limited service, return to the private sector and live under the laws they had enacted. The Virginia Bill of Rights, adopted June 12, 1776, states:

> "A declaration of rights made by the representatives of the good people of Virginia . . . which rights do pertain to them and their posterity, as the basis and foundation of government.
>
> . . .
>
> SECTION 5. That the legislative and executive powers of the State should be separate and distinct from the judiciary; and that the members of the two first may be restrained from oppression, by feeling and participating the burdens of the people, they should, at fixed periods, be reduced to private station, return into that body from which they were originally taken, and the vacancies supplied by frequent, certain, and regular elections, in which all, or any part of the former members, to be again eligible, or ineligible, as the laws shall direct."

The same Virginia resolution that proposed independence asked Congress to prepare a plan for the confederation of states. Under the provisions of Article V, states appointed their delegates annually "with a power

reserved to each state, to recall its delegates, or any of them, at any time within the year, and to send others in their stead, for the remainder of the Year". Additionally, no delegate could serve "more than three years in any term of six years". The Articles of Confederation proposed by Congress were not effective until ratified by *all the states* through conventions of the people.

Hence, the states' pre-Constitutional power can be summarized as: (1) *the absolute power to choose* their representatives; (2) *the absolute power to recall or disqualify* a delegate from service, and (3) *the ultimate power over term limitation*. The question remains whether, through adoption of the Constitution, the States, or its people, have relinquished the powers it had prior to its adoption.

B. IF THE STATES HAVE NO POWER TO LIMIT TERMS UNDER U.S. CONST., ART I, §4, CL. 2, THEN NEITHER DOES CONGRESS AND NO OTHER CONSTITUTIONAL PROVISION DELEGATES THAT POWER TO CONGRESS

U.S. Const., Art. I, §4, cl. 2 gives states the primary right to prescribe laws regulating the time, place and manner of elections for senators and representatives. Petitioners argue that Amendment 73 is a ballot access restriction authorized under Art. I, §4, cl. 2. *Amici* agree.

States are granted substantial flexibility in establishing the framework within which voters choose the candidates for whom they wish to vote. *Anderson v. Celebrezze*, 460 U.S. 780, 788 (1983). This Court has always recognized the states' rights to impose reasonable ballot access

restrictions that do not otherwise abridge the constitutional rights of voters, candidates or political parties. See, *e.g., Burdick v. Takushi,* 504 U.S. ___ (1992); *Munro v. Socialist Workers Party,* 479 U.S. 189 (1986); *Jenness v. Fortson,* 403 U.S. 431 (1971).

As noted by Alexander Hamilton, this broad provision was designed to allow for "probable change in the situation of the country". The Federalist No. 59, p. 384 (E. Earle ed. 1937). Hamilton further describes the "chimerical" dangers of giving absolute power over federal elections to Congress:

> "that it [abuse] could never be made without causing an immediate revolt of the great body of the people – headed and directed by state governments. It is not difficult to conceive that this characteristic right of freedom may . . . be violated . . . but that so fundamental a privilege . . . should be invaded to the prejudice of the great mass of the people . . . without occasioning a popular revolution, is altogether inconceivable and incredible. The Federalist, No. 60, pp. 389-390. (E. Earle ed. 1937).

Nor would it be consistent with the Constitutional principle of popular sovereignty if Congress were allowed unilaterally to impose laws on the people instructing them who may or may not appear on their ballot.

The states' power is primary. Congress' role is one of preservation of government; it can only act when "extraordinary circumstances might render that interposition necessary to its safety". The Federalist, No. 59, pp. 384-385. (E. Earle ed. 1937). The term limitation provisions in Amendment 73 (and in the laws of other states,

including California) cannot be said to threaten the "safety" of Congress unless its safety lies in the incumbency of its members.

If term limitations by state action are not viewed permissible under the "time, place, manner clause", then Congress has no delegated power pursuant to this clause either. Moreover, no other Article I power can logically be extended to delegate the power to limit terms to Congress.

If, on the other hand, term limitation is viewed as a "qualification", then Congress' only power is to *judge* the standing of its members, pursuant to U.S. Const. art I, §5. It has no power to add additional qualifications for those members who have already been *duly elected by the people. Powell v. McCormack*, 395 U.S. 486, 522, 550 (1968). *Powell* is not determinative of the issues before the court in this instance. Firstly, that holding was limited to the power of Congress, not the states or the people. Secondly, the Court recognized the right of the people to elect the candidate of their choice.

As already mentioned, Congress *could* seek to amend the Constitution, but there is no "power" to limit terms until it is "delegated" by state ratification. The "truism" that all is retained which has not been surrendered (*United States v. Darby*, 312 U.S. 100, 124 (1941)) is never more true than when, by and through the amendment process, states (and the people) give up and further delegate their Tenth Amendment reserved powers. But until such delegation of power, the power to limit terms, if not prohibited to the States, is reserved to the people.

C. THE POWER TO LIMIT TERMS IS NOT PROHIBITED TO THE STATES

1. The Constitution Did Not Divest the People of Their Pre-Constitutional Powers over Their Delegates

The states' power to appoint and recall their representatives continued after their ratification of the Constitution. Although later amended to provide for senators elected by popular vote, the Constitution adopted in 1789 provided for senators appointed by state legislatures and representatives elected pursuant to state election laws.

Recall provisions are still found in many state constitutions, some of which allow popular recall of congressional members. For example, Wisconsin provides that "the qualified electors of the state, of any *congressional,* judicial or legislative district or of any county may petition for the recall of an incumbent elective office . . . " Wis. Const. art 13, § 12. [Emphasis added].[3] Unfortunately, the recall provisions no longer serve as an effective means of controlling incumbency. Prior to the Constitution, delegates received their appointments from state legislatures who, more easily and with less hoopla, could recall the delegate and for any reason. With the shift to representation by popular election, recall procedures must be initiated by petition of the people with the attendant taxpayer expenses of recall elections and re-elections and, in most instances, sufficient grounds for removal is required.

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[3] Similar provisions are found in the laws of Montana, Utah, Arizona, Colorado, N. Dakota, Kansas, Washington, and Oregon (list not exclusive).

States also retained their right of ratification of constitutional amendments. The inclusion of the term "convention" in U.S. Const. art. V was based on the acknowledgment by the Framers that conventions of the people were an integral part of the political process in many states, i.e. a "deliberate majority". Yet reading Article V within the context of the Tenth Amendment does not necessarily mean that Article V is exclusive. The reserved power of the people to amend the constitution by popular vote on a state-by-state basis is not precluded. T. Messonnier, A Neo-Federalist Interpretation of the Tenth Amendment, 25:1 Akron Law Rev. 237-240 (1991).

2. Amendment 73 is not Barred by the Qualifications Clauses

Amendment 73 is not impermissible under the qualification provisions of U.S. Const. art. I, § 2, cl. 3 (representatives) and § 3, cl. 3 (senators). Amendment 73 – and similar laws enacted in the several states, including California – do not prevent anyone from campaigning for election and serving if elected under the write-in provisions of the elections laws.

In *Storer v. Brown*, 415 U.S. 724 (1974), this Court upheld the constitutionality of a California election law under which ballot access was denied to two independent candidates for Congress who had a registered affiliation with a qualified party within a specific time before the primary election. The Court held that states have the broad powers to regulate regarding the selection *and qualifications* of candidates to be placed on a ballot and noted that this is especially true where states have an

interest in limiting ballot access to insure the stability of the political system. *Id.* at 730, 736.

Also, term limitation is not a qualification because, unlike age, citizenship and residency, it is specifically related to the service one person has done for his or her state. Lengthy service in Congress is not likely to apply to many people; it does not affect classes of persons, only a small number of individuals. S. Safranek, *Term Limitations: Do the Winds of Change Blow Unconstitutional?*, 26 Creighton Law Rev. 355-356 (1993).

Even if characterized as a "qualification", the questions remain: who, if anyone, may add or subtract and how should the changes be made?

Under the *Powell* decision, *supra,* Congress has no independent power to add or subtract qualifications; they must act by proposing amendments. But although the intent of the Framers may have been to exclude Congress' ability to unilaterally qualify its members, there is no such expressed intent to deny that power to the state or the people.

The purpose of the qualifications clause was to "open merit of every description, whether native or adoptive, whether young or old, and without regard to poverty or wealth, or to any particular profession of religious faith." See, The Federalist No. 52, pp. 342-343 (E. Earle ed. 1937). (Madison). It was, at least (and at best), an *attempt* at uniformity, where state-enacted qualifications for its own elected officials were often based on property holdings, wealth, and religion.

However, when the qualifications clauses were adopted, "citizenship" and "inhabitancy" were determined under *state* law. The "dissimilarity in the rules of naturalization" among the states was noted by Madison:

> "In one State residence of a short term confers all the rights of citizenship. In another qualifications of greater importance are required. An alien therefore legally incapacitated for certain rights in the latter, may by previous residence only in the former, elude this incapacity . . . " The Federalist No. 42, p. 77 (E. Earle ed. 1937).

Madison urged the "general government" to establish a uniform rule of naturalization. But even after Congress enacted a uniform naturalization law in 1795, birthright citizenship (Native Indians and Blacks) was still dependent on *state* law, as was repatriation to state citizenship after absence from the state. R. Hills, Jr., *A Defense of State Constitutional Term Limits on Federal Congressional Terms,* 53:97 Univ. Pittsburgh Law Rev. 118 (1991).

Incumbency, to the Framers, was not a social evil of the times. Although term limitation provisions were included in the Articles of Confederation, delegates were reluctant to travel distant miles and serve long terms. The Framers saw stability in government as necessary to a new nation. Moreover, the Constitution is a system of checks and balances. The appointment power of the states (senators) was balanced with the election power of the people (representatives). The Framers' decision not to include in the Constitution a provision to limit incumbency was "checked" by the states' right not to reappoint a senator and the frequent election provisions for representatives.

Powell did not address the issue of whether the *people* could "add" qualifications. U.S. Const. art. I, § 2, cl. 1, expressly empowers the people to choose the members of the House of Representatives. This important concept underlies the *Powell* holding because Mr. Powell had been *duly elected by the people.*

Amici point out that if, in 1966, the state of New York had a recall provision similar to that of Wisconsin, cited *supra,* the voters of the 18th Congressional District of New York could have petitioned for Mr. Powell's recall and, thus, could have imposed an additional "qualification" relating to moral turpitude. Likewise, it would be within the power of the New York state legislature to enact recall provisions. If a state, through its recall provision could add a "qualification" that would, in practice, affect one, or a few, incumbents, then it is not prohibited by the Constitution from so doing.

The power to limit terms, therefore, not being delegated to Congress, and not constitutionally prohibited to the states, is reserved to the people.

II. THE POWER OF THE PEOPLE TO LIMIT TERMS DOES NOT OFFEND, BUT ABSOLUTELY PROMOTES, CONSTITUTIONAL PRINCIPLES

Respondents (and other opponents of the initiative process) would urge this Court that term limitation is *exclusively* a matter for constitutional amendment, i.e., that it is a matter for Congress and the States – not the

people. This argument completely ignores the principle of popular sovereignty recognized as the foundation of the Constitution, under which U.S. Const. art. V *must* be read *in conjunction* with the Tenth Amendment.

Amendment 73 to the Arkansas Constitution is not federal action or state action – it is people action. If there is any potency to the principle of popular sovereignty, the question is: how may the people exert their sovereign power? Where is their vehicle and which road will lead to change?

History shows that the people could effectuate change by resorting to revolutionary or civil war. History also shows that the people can effectuate change by exercising their rights in the political process.

As drafted – and until 1912 – U.S. Const. art. I, § 3, cl. 1 provided: "The Senate of the United States shall be composed of two senators for each State, *chosen by the legislature thereof*, for six years; and each senator shall have one vote." After the ratification of Amend. XVII, senators were elected by popular vote.

The history of the long struggle of the people to achieve a voice in the election of their senators is extensively reviewed in G. Haynes, *The Election of Senators* (1906). According to that author, a petition for an amendment to provide for popular elections for senators was first approved by the House of Representatives in 1893, after several previous unsuccessful attempts. However, the Senate failed to approve the proposal. Meanwhile, the national parties began to put the issue at the forefront of their conventional platforms, first appearing in the People's Party in 1892 and in the Democratic Party in 1900.

But the people could not wait for legislative reform. Starting with Nebraska in 1875, followed by Nevada in 1899 and Oregon in 1901, on demand of the people of those states, laws were adopted to provide for popular election of Senate candidates, which the states would then "appoint" according to the letter of the Constitution. By 1906, the legislatures of thirty-two states had taken some kind of formal action. It was not until the gradual infiltration of the Senate by "elected-appointed" senators comprised close to a $^2/_3$ majority that Amendment XVII passed.

Noteworthy here is that states, while abiding by the "letter" of the Constitution, had interpreted its "spirit" as that of the people's right to choose their own way of *qualifying* a Senator for appointment by the state.

Another poignant example of grassroot efforts effecting constitutional change is found in the history of women's suffrage. Only because the determination of the qualifications of electors was absolutely granted to the states in U.S. Const. art. I, § 2, cl. 1, and not the federal government, did women get the right to vote. Wyoming was the first state to recognize women's suffrage in 1870 and, by 1918, twenty states allowed women to vote in the next presidential election of 1920 (which constituted 237 electoral votes). E. Flexner, *Century of Struggle* (1975). In recognition of the will of the people, Congress finally adopted Amendment XIX in 1919 which, after ratification by the states, allowed all women to vote in the 1920 Presidential election.

These two examples suggest that term limitation on a state-by-state basis will, in due (if not record) time, lead

to a constitutional amendment. The states with term limitations in place thus far already comprise approximately 37% of the House of Representatives.[4]

If not allowed to proceed on a grassroots level on a state-by-state basis, the people have little remedy. At least one high Court has held that voters cannot petition their legislature, through the initiative process, to call for an Article V constitutional convention. *American Federation of Labor v. Eu*, 36 Cal.3d 687 (1984). People are either denied participation in the "national political process" or that process has failed the people. See, *Garcia v. San Antonio Metropolitan Transit Authority*, 469 U.S. 528, 555, 557 (1985). Although it is arguably authorized under the Tenth Amendment powers reserved to the people, and the First Amendment right to petition the government for redress of grievances, through an initiative on the national level, Congress has never enacted a procedure for doing so or the means to make the petition binding.

The process has also failed voters at the polls: long-term incumbency has induced voter apathy with a lower and lower percent of voter turnout at every major election. *Amici* grassroots organizations actively solicit voter responses on the issue of term limitations: voters repeatedly express their feeling that voting, especially in a primary election, for the candidate of their choice will not matter – as these candidates are often underfinanced and, therefore, without equal access to the media.

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[4] Like the "appointed-elected" senators, one might safely assume that when the needed majority are term-limited, they will endeavor more vigorously to limit the terms of all.

The Tenth Amendment is implicated when the "national political process" operates in such a defective manner. *State of South Carolina v. Baker,* 485 U.S. 505, 513 (1988).

III. TERM LIMITATIONS SERVE SUFFICIENTLY IMPORTANT INTERESTS OF THE PEOPLE TO SUSTAIN THEIR CONSTITUTIONALITY

On balance, the peoples' interest in limiting the terms of their congressional representatives far outweighs any real or perceived benefits of long-term incumbency.

Unlimited term incumbents become preoccupied with their own re-election. This distracts them from their responsibilities and they spend less time making legislative decisions for the benefit of the people. Long-term incumbents become too closely aligned with the special interest groups who provide contributions and support for their re-election campaigns. Long-term incumbents are lobbied by these groups for special interest legislation and they, in turn, spend time and taxpayer dollars to lobby each other for the necessary votes for that special legislation, even if that legislation is not in the best interest of constituents, who are disproportionately represented. The actual and perceived corruption of the legislative system has resulted in voter apathy, which is counter-productive in a representative democracy.

Qualified people, unable to match the PAC dollars, are discouraged from seeking office and/or are denied access to the necessary media. This has led to a lack of competitiveness and a decline in robust debate on issues

of importance to the people. Voters are thus unable to vote for the candidates of their choice.

Term limitation restores integrity to the system by curtailing the effects of special interest groups and allowing the elected to serve the people more honestly, more vigorously and more devotedly. Term limitation gives more people the opportunity to stand for and hold elective office, people who have lived under the laws of their predecessors and are sensitive to the times and needs of the people.

CONCLUSION

The power to limit the terms of their congressional representatives is a power reserved to the people under the Tenth Amendment. The only way that the people of the Nation can meaningfully exercise that power is through their states and through the political processes available to them. The real and perceived evils of incumbency are counter-productive to a representative democracy and the interests of the people far outweigh any imagined and unrealized benefit of long-term incumbency.

For all the foregoing reasons, Amici respectfully urge this Court to reverse the judgment of the Supreme Court of Arkansas.

DATED: August 16, 1994

Respectfully submitted,

JAYNA P. KARPINSKI
6929 Larkspur Avenue
Citrus Heights, CA 95610
(916) 722-8647

Counsel for Amici Curiae
People's Advocate, Inc. and
*National Committee to Limit Terms**

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* *Amici* and their counsel would like to acknowledge and extend our deepest appreciation to Kristin Comer for her timeless, relentless and invaluable research efforts.